

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In re )  
 )  
Review of the Syndication )  
and Financial Interest Rules, )  
Sections 73.659 - 73.663 )  
of the Commission's Rules )

MM Docket No. 95-39

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REPLY COMMENTS OF NATIONAL BROADCASTING COMPANY, INC.

I. INTRODUCTION AND SUMMARY

The parties who oppose the scheduled expiration of the fin/syn rules are obligated "to demonstrate 'an excellent, a compelling reason' why the restrictions should be continued," and to support their position with "empirical data and economic analysis" on the 14 relevant factors identified in the Notice and the Second Report and Order.<sup>1</sup> As predicted in NBC's initial comments, the three parties seeking to retain (and even, astonishingly, to strengthen) fin/syn regulations have totally failed to sustain this burden of proof.<sup>2</sup> The fin/syn proponents

<sup>1</sup> Notice of Proposed Rulemaking ("Notice") at par. 13, citing Capital Cities/ABC v. FCC, 29 F.3d 309, 316 (7th Cir. 1994); Second Report and Order in MM Docket No. 90-162, 8 FCC Rcd 3282, 3340 (1993).

<sup>2</sup> The parties filing in support of continued fin/syn regulation are The Coalition to Preserve the Financial Interest and Syndication Rule ("Coalition"), The Association of Independent Television Stations ("INTV") and King World Productions, Inc. ("King World").

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do not cite a single instance of network abuse under the relaxed fin/syn regime that has existed since 1991. They rely instead on recycled arguments that the Commission has already rejected, and even on recycled economic studies the Commission has already found unconvincing.<sup>3</sup> Although the gist of their collective case is that market structure and competitive conditions continue to warrant fin/syn restraints, none of their filings describes any new or changed marketplace conditions that would justify keeping or reimposing regulation. They merely point to the very same market conditions the Commission concluded two years ago "do not justify retention of fin/syn restrictions."<sup>4</sup>

The arguments that did not carry the day in 1993 are no more persuasive in 1995. Indeed, as NBC demonstrated in its initial comments, since 1993 the marketplace has become even more competitive and diverse, supporting the conclusions of the Second Report and Order and warranting adoption of the 7th Circuit's suggestion that there be more rapid deregulation than the

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<sup>3</sup> The Coalition attaches sections of the comments it filed at earlier stages in this proceeding, along with the economic arguments and analyses of Dr. Frederick Warren-Boulton that the Commission expressly rejected in 1993. Second Report and Order, 8 FCC Rcd at 3309-10.

<sup>4</sup> Memorandum Opinion and Order, 8 FCC Rcd 8270, 8278 (1993) (hereinafter "Reconsideration Order").

Commission contemplated two years ago.<sup>5</sup> Nothing in the filings submitted by fin/syn proponents justifies a different result.

II. THE FIN/SYN PROPONENTS HAVE FAILED TO OFFER A SINGLE  
RELEVANT FACT OR THEORY TO SUPPORT THEIR CALL FOR CONTINUED  
REGULATION

Since the three parties supporting continued fin/syn restrictions cannot meet the burden of proof the Commission has established in this proceeding, they essentially ignore it. Instead they fall back on contentions that are fundamentally irrelevant. This only serves to underscore the bankruptcy of their position.

The reason for the phased elimination of fin/syn and the purpose of this proceeding are closely linked. The Commission clearly and repeatedly explained its reasoning, which was endorsed by the Court of Appeals, in both the Second Report and Order and its 1993 decision on reconsideration. The Commission explicitly found that "the market is presently structured to function competitively in the absence of the rules," and it "viewed the developing market trends as confirmation of [that] assessment..."<sup>6</sup> The Commission also predicted that the "networks would not behave in ways detrimental to diversity and competition

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<sup>5</sup> Capital Cities/ABC v. FCC, supra, 29 F.3d at 316.

<sup>6</sup> Second Report and Order at 3294 n. 27.

if the restraints were lifted."<sup>7</sup> However, it wanted to retain certain restrictions on network syndication activities until its "theoretical analysis is tested by some degree of practical experience in the financial interest area."<sup>8</sup>

This "final review of the remaining restrictions is designed to elicit specific information about the networks' behavior as new participants in the programming marketplace."<sup>9</sup> The Commission believed that its "lack of certainty regarding the danger of removing the active syndication and first-run constraints would be reduced if, after two years of network participation in the program acquisition market, there were no unintended negative consequences."<sup>10</sup> On the other hand, "evidence of abuse would weigh against network entry into the syndication market..."<sup>11</sup>

Thus, the only reason the Commission did not totally eliminate the fin/syn rules in 1993 was because it wanted to

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<sup>7</sup> Second Report and Order at 3290.

<sup>8</sup> Reconsideration Order at 8295.

<sup>9</sup> Second Report and Order at 3318 n. 89.

<sup>10</sup> Reconsideration Order at 8279.

<sup>11</sup> Second Report and Order at 3318 n. 89.

"monitor network behavior with respect to the acquisition of programming, the use of independent syndicators and the syndication of programming in foreign markets" to test its predictive judgment that the networks would not engage in anticompetitive practices or threaten diversity.<sup>12</sup> The Commission's decision to eliminate the rules would be revisited only if that predictive judgment was proven wrong by the proponents of continued regulation. The purpose of this proceeding is to give fin/syn proponents the chance to sustain that burden.<sup>13</sup> It is not to revisit (1) the same tired arguments about "network power in the prime time entertainment marketplace" (Coalition Comments at 15);<sup>14</sup> (2) the same baseless assertions about the "networks' incentive and ability to engage in anticompetitive practices which would deprive independent stations of syndicated programming (INTV Comments at 6); or (3) the same discredited claims about the networks' "unique power to

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<sup>12</sup> Second Report and Order at 3318 n. 89, 3338 n. 149.

<sup>13</sup> Id. at pars. 3340-41.

<sup>14</sup> The Coalition argues that the economic study filed on behalf of the networks in the Prime Time Access Rule proceeding provides "direct empirical support" for the proposition that network distribution is essential to producers of prime time entertainment programs (Coalition Comments at 15-17). This is truly grasping at the flimsiest of straws. Viewer reaction to the imposition of PTAR 25 years ago, and the continuing popularity of network entertainment programming, do not prove the network "bottleneck" theory. The notion of a network gatekeeper is preposterous in the video marketplace of 1995.

control the distribution of first-run syndicated programming." (King World Comments at 6). The Commission and the Court of Appeals have already determined those arguments to be unavailing.

The question the proponents of regulation must now answer -- the burden of proof they must sustain -- is whether since 1993 there has been a change in the marketplace, or any aspect of network behavior under a relaxed fin/syn regime, that lends credibility to the otherwise unsupported assertions about alleged network "power" and "incentives" to harm competition and diversity. The fin/syn proponents have totally failed to identify any such marketplace change or network behavior. Not one proponent has advanced a single "excellent" or "compelling" reason for continued fin/syn restrictions. Not one of them has advanced a single instance of network anticompetitive behavior or abuse under the relaxed fin/syn regime. They basically ignore the 14 factors the Commission deemed relevant to its final review of the rules. And not one of the three fin/syn proponents supports its case with any credible empirical data or economic analysis. The proponents have therefore made it easy for the Commission to fully implement the Second Report and Order by eliminating the remaining restrictions immediately.

III. THE IRRELEVANT CONTENTIONS OF THE FIN/SYN PROPONENTS ARE WITHOUT MERIT

Although the contentions of the fin/syn proponents are totally irrelevant to the issues the Commission has said it wants to examine in this proceeding, NBC is loathe to leave these contentions -- which are erroneous and without merit -- unanswered. We will therefore briefly set the record straight.

A. The Coalition's Comments

Lacking even a shred of evidence that partial relaxation of fin/syn restrictions has had any deleterious consequences, the Coalition takes the position that the rules should nonetheless be maintained because the benefits of fin/syn deregulation have yet to materialize. (Coalition Comments at 6-14). As Section I of these Comments makes clear, the degree to which relaxation of fin/syn has yielded public interest benefits since 1993 is not at issue in this proceeding. But even if the problem of relevancy could be solved, the Coalition's contentions have no merit:

1. The Coalition claims that the Commission's prediction of better financing terms for producers has not come to pass, and that, in fact, the networks have "uniformly lowered the license fees they pay for prime time entertainment programming." (Coalition Comments at 11). The Coalition supports this claim

with completely undocumented figures that purport to describe the range of network license fees paid to "a producer" in 1993 and today. The source of these figures is not disclosed. We can't tell whether they represent license fees paid for the average series program (which would include both new series and much more expensive series that have been on the air for many seasons), or for new series only. Nor can we tell whether the mythical producer receiving these fees is a newcomer or has a long track record of successful network productions -- another factor that might affect the amount of the license fee. Thus, even if they were relevant to this proceeding, the Coalition's license fee claims are totally unsubstantiated, unreliable and unconvincing.

2. The Commission should also ignore the Coalition's claim that the networks have failed to invest in particularly risky programming. The basis of this claim is that a program is not risky if it is produced by a "well-established" producer or if it is formatted as a situation comedy or traditional drama. (Coalition Comments at 12). NBC takes strong exception to this narrow definition of "risk" in television programming. Every one of the in-house productions introduced by the networks in the Fall, 1994 failed; all television programs are risky. The type of programs the Coalition claims are sure bets can still be characterized by substantial creative and financial



risks.<sup>15</sup>

3. The Coalition's claim, which is echoed by INTV, that there has been a dramatic increase in network in-house production since the financial interest rule was lifted is not borne out by the facts. (Coalition Comments at 13-14; INTV Comments at 10). The level of network in-house production has actually remained relatively constant since the 1992-93 season, i.e., since before the networks were freed of financial interest rule restrictions in November, 1993. According to the analysis prepared for the three networks by Economists Incorporated, ABC, CBS and NBC combined accounted for 20.2% of their prime time entertainment series hours in 1992-93. During 1993-94, the first season affected by the elimination of network financial interest restrictions, network in-house production accounted for 19.0% of prime time entertainment series hours. In 1994-95, the

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<sup>15</sup> For example, "Hill Street Blues," "All In The Family," "NYPD Blue" were produced by Stephen Bochco and Norman Lear -- well known talents -- and followed traditional hour-long drama or situation comedy formats. Nonetheless these were breakthrough programs that risked rejection by an audience that was not used to the innovative creative approach taken by these producers. In 1994 NBC took over the production of the hour-long drama, "Homicide," which was created by the well known theatrical producer/director, Barry Levinson, from a company that was going out of the television production business. Although the program enjoyed enormous critical acclaim, it was failing in the ratings when it became an in-house production. NBC's investment and patience has paid off; the show's ratings have grown and it remains on the Network schedule.

percentage rose slightly to 25.8%, then fell back again to 22.2% for the new, Fall 1995 season.<sup>16</sup>

The Coalition also claims, without specificity or substantiation, that the networks have taken "ownership interests in approximately 40% of the programs added to the networks prime time line-ups in the last two years."<sup>17</sup> It is not clear what two-year time frame the Coalition is referring to since, as noted above, the networks were not freed from financial interest restraints until after most of the programs for the 1993-94 season had premiered, and the Coalition concedes it has not analyzed the networks programs that will premier in the Fall, 1995. In any event, NBC believes that with respect to the relevant 19-month period since November, 1993, the Coalition's 40% figure is considerably inflated.

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<sup>16</sup> "An Economic Analysis of the Prime Time Access Rule," submitted in Docket No. 94-123, Appendix E, as amended and updated on June 12, 1995. The data from the PTAR Economic Analysis which is cited by INTV do not indicate that network in-house production accounted for only 1% of total hours in 1984-85 and 7.6% in 1993-94. As clearly stated in the PTAR submission, those numbers represent a three-network average, not cumulative totals. It appears that the 21% figure for in-house production INTV cites from Broadcasting and Cable magazine includes shows produced by the network news divisions, and is therefore neither comparable to the other data INTV cites nor relevant to the issues in this proceeding.

<sup>17</sup> It appears that by "ownership interests" the Coalition is referring to in-house and co-productions. (Coalition Comments at 17).

Even if the Coalition's 40% claim is accepted as valid, (1) it indicates that the networks had no financial interests or syndication rights in the majority of new programs appearing on their prime time schedules; (2) the Coalition does not allege any network has ever "extracted" any kind of financial interest or syndication right from any outside producer; and (3) the Coalition's implication that the 40% figure is indicative of network favoritism towards their in-house productions is completely belied by the fact that every single network in-house show that premiered in the Fall, 1994 was canceled by its respective network by the end of the broadcast season. In network television, ratings success, not ownership interests, are the name of the game.

4. The Coalition argues that fin/syn restraints should be preserved because the networks have not financed producers the Coalition considers to be "small" and "new." The Commission did not base its decision to eliminate the fin/syn rules on a prediction of which producers the networks might finance. It merely expressed the belief that the "chances" that smaller producers could obtain financing would be "greatly improved" if networks could compete with the studios as financiers.<sup>18</sup> Even assuming the accuracy of the Coalition's claim, and even assuming that the identity of the producers that obtain network financing

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Second Report and Order at 3308.

is a legitimate Commission concern, 19 months -- which is the time that has elapsed since Consent Decree restrictions were eliminated -- is not enough time to reach any conclusions about how small producers will ultimately benefit from more competition in production financing.

5. Finally, in light of its failure to demonstrate that the remaining fin/syn restrictions should be retained, the Coalition's suggestion that additional restrictions should be imposed on the networks is the height of chutzpah. It seems as though the Coalition feels compelled to go through its members' regulatory wish list just one last time, asking for restrictions the Commission rejected in 1993, or refused to adopt as early as 1991:

- The Commission rejected the two-step license fee negotiation safeguard in 1993, saying that it was "an artificial disincentive, which works at cross-purposes with our goal of removing limits on the funding of new, outside programming." (Second Report and Order at 3301.)
- In 1991, the Coalition tried to get the Commission to adopt regulations embodying the four-year Consent Decree limit on network option terms. The Commission refused then, and should reject the same request out of hand now.
- The Coalition also calls for retention of the anti-warehousing rule and re-adoption of affiliate favoritism safeguards if the ban on network domestic syndication is lifted. The Commission decided in the Second Report and Order that these restrictions were unnecessary unless its review of network behavior in this proceeding demonstrated regulation was required to

protect outlet diversity.<sup>19</sup> To reiterate, not a single fin/syn proponent has offered evidence of a single example of network behavior since 1993 that would warrant retention or adoption of any fin/syn restraints.

B. INTV Comments

INTV contends the Commission must make "findings" that independent stations would not be harmed by the sunset of fin/syn restrictions. This argument stands the burden of proof in this proceeding on its head. The burden -- which is INTV's to satisfy -- is to demonstrate with "empirical data and economic analysis" that independent stations will be harmed if there are no restrictions on network domestic syndication activities. INTV has failed to provide the Commission with a single fact, or a single argument that has not already been considered and rejected, that would support such a finding.

If the Commission decides to consider INTV's arguments despite their failure to address the issues identified for review, NBC urges the Commission to keep the following points in mind:

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<sup>19</sup> Second Report and Order at 3323 ("We thus will retain the anti-warehousing rule subject to our review and sunset terms discussed [in this Order]"; *Id.* at 3324 ("We will monitor the situation [syndication of programs in which networks hold financial interests] via reporting conditions to ensure that such abuses [affiliate favoritism] do not occur."))

1. As NBC demonstrated in the Commission's proceeding to evaluate the Prime Time Access Rule, the term "independent" station is a misnomer in 1995.<sup>20</sup> Eighty percent of the general interest television stations<sup>21</sup> that are not affiliated with one of the three original networks are now affiliated with the Fox Network, the UPN Network or the Warner Brothers Network. The newer networks are vertically integrated into production, syndication (off-network and first-run) and, in the case of Fox and UPN, station ownership. There is no justification for a regulatory scheme that only restricts the three original networks and their affiliates.

2. Many of the "findings" INTV claims the Commission made in 1993 with respect to "independent" stations have been proven incorrect by data submitted in the PTAR proceeding. For example, INTV claims that the Commission found that "independent" stations would be harmed if they were denied access to attractive off-network programming (INTV Comments at 5). The Economic Analysis submitted on behalf of the three networks demonstrates that during prime time the largest category of programming broadcast by "independent" stations (including Fox affiliates) in the Top

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<sup>20</sup> Reply Comments of National Broadcasting Company, Inc. in MM Docket No. 94-123, May 26, 1995 at 10-16.

<sup>21</sup> I.e., stations not devoted to religious, home shopping or foreign language formats.

50 markets during the November, 1994 Sweeps (39%) was first-run syndicated programming, and the second largest category (34%) was movies. Off-network programming accounted for only 10%. Even during the Access hour, when INTV claims off-network programming is most crucial to independent stations, it accounted for only 60% of these stations' programming hours.<sup>22</sup>

3. There is no evidence that the networks would deprive "independent" stations of syndicated programs if they could freely participate in the syndication business:

- The Commission found that there was no indication networks favored their own affiliates or refused to syndicate programs to independent stations before the original fin/syn restrictions were imposed.<sup>23</sup>
- The Court of Appeals held that "there are no convincing theoretical reasons...for expecting the networks to withhold programming from the independent stations in order to weaken them competitively, as by purchasing syndication rights and then refusing to syndicate to independent stations...". (Capital Cities/ABC v. FCC, supra,

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<sup>22</sup> An Economic Analysis of the Prime Time Access Rule, submitted by Economists Incorporated in MM Docket No. 94-123 (March 7, 1995), Appendix H.

<sup>23</sup> Prime Time Rule, 19 RR 2d 1869, 1886 (1970). This conclusion, which was reached in an era when the networks faced little or no competition, is entitled to far more weight than the two isolated and unconvincing examples cited by King World to support its claim that networks have the power and incentive to exploit their "unique" distribution system to favor syndicated programs in which they have an interest. See pp. 18-19, infra.

39 F.3d at 316). The Commission has also concluded that "based on continuing marketplace trends and the overall record on this issue...we anticipate that outlet diversity could be maintained once the remaining restraints are removed..." (Second Report and Order at 3320).

- INTV does not point to a single instance of network abuse under the relaxed fin/syn regime that would "presage anticompetitive behavior in the off-network syndication market." (Reconsideration Order at 8293).

C. King World's Comments

King World, the largest supplier of first-run syndicated programming,<sup>24</sup> would naturally like to keep network competitors out of the market it now dominates, and so it urges retention of the restrictions on active network syndication of first-run programs and on network acquisition of financial interests in such programs. However, King World is no more successful than its fellow fin/syn proponents in meeting the requisite burden of proof. King World's Comments merely dredge up the old arguments about the networks' "unique" leverage over their owned and affiliated stations, and claim there is a "dangerous probability" that the networks will use that leverage to restrict the marketplace for first-run syndicated programming. However, King

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<sup>24</sup> In November, 1994, King World's share of the first-run syndication market was 21%, and it distributed 4 of the top 5 first-run programs. Its closest competitor was Viacom/Paramount with an 11% market share. Paul Kagan Associates, TV Program Stats, February 28, 1995, pp. 3-4.



World offers no credible evidence to demonstrate that this "dangerous probability" is anything more than a figment of its imagination.

King World admits that its real concern is "a matter of vertical integration." (King World Comments at 4). But vertical integration, absent evidence of anticompetitive behavior or abuse, tends to promote efficiencies, economies and ultimately consumer welfare. There is no reason why the first-run syndication business is different in this respect from all others, and King World provides none. But if first-run syndication is somehow unique in this respect, the Commission should set its sights not only on the three networks, but on Fox, Viacom/Paramount, Tribune Broadcasting and other companies that are heavily into first-run syndication and highly vertically integrated into production, station ownership and distribution (including, in the case of Fox and Viacom/Paramount, broadcast networking).

The fact is that Commission has already determined that the structural "advantages" conferred by ownership of stations in major markets and a network of affiliated stations "alone are probably not sufficient to justify continued regulation."<sup>25</sup> King World offers nothing new and nothing more. It does not provide

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<sup>25</sup> Reconsideration Order at 8299.

the Commission with any evidence of network "abuses" that might shake the accuracy of the Commission's conclusion that all remaining fin/syn restraints should be eliminated by November, 1995.<sup>26</sup> The points King World raises fall far short of meeting the explicit criteria for continued regulation set forth in the Commission's 1993 decisions:

1. Contrary to King World's assertion, the data submitted by the parties in the PTAR proceeding do not demonstrate that the networks "control the critical distribution gateway" for syndicated programs. (King World Comments at 7). Indeed, these data have nothing to do with the fin/syn rules or the issue that is central to this proceeding: network behavior in the program acquisition and distribution market since 1993. If King World is correct that "the overwhelming preponderance of first-run programming...is carried on network-owned or network-affiliated stations," it only proves that PTAR causes marketplace distortions, not that the networks have undue "power" over their owned stations and affiliates.

2. The "experience under existing rules" that King World claims is evidence that networks will unfairly exploit their distribution system does not prove the proposition for which it is cited. King World points to a single first-run program

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See, Second Report and Order at 3327-29.

produced by NBC, "Memories," and contends that since 70% of the stations that licensed the program in its first season were NBC affiliates, networks will always "exploit their power over the distribution system upon which first-run programming critically depends." (King World Comments at 10). It is noteworthy that

- King World bases its claim on a total universe of only 44 stations;<sup>27</sup>
- King World concedes that "Memories" was syndicated by an independent, third party distributor; and
- King World does not claim that NBC had any influence over the independent syndicator's sales practices, or over the selection of stations to which sales were made.

If NBC did not control or influence the syndication sales patterns of the independent third party syndicator, it is difficult to see how it exercised the "power" King World insists we possess. Nor does King World explain why, if NBC has such enormous power over its distribution system, "Memories" was a failure in syndication, lasting only about two years. If NBC had the power King World claims, it would have been able to force sufficient clearances to make the show a success.

The syndication sales pattern of a successful first-run program produced by NBC, "News 4 Kids," is more instructive.

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"Memories" was no longer in syndication when the first Financial Interest reports were filed by NBC in September, 1993. NBC therefore does not know the source of King World's information about the identity of the stations that licensed the program.

This is the only in-house NBC production that has been in active first-run syndication by a third party syndicator since 1993, and the identities of the stations licensing the program are listed in the Financial Interest Reports that have been filed by NBC. As of May, 1995, 210 stations had licensed the program. Only 49 of those stations -- or 23% -- are NBC owned or affiliated stations. Clearly networks will not "always exploit their control over their owned and affiliated stations as King World claims."<sup>28</sup>

3. King World's claim that allowing the networks to syndicate and acquire financial interests in first-run programming would produce no public benefits is also erroneous. As syndicators the networks would offer new competition to a first-run marketplace that is currently dominated by King World and the Hollywood studios, which together control 47% of the market<sup>29</sup>. Elimination of financial interest restrictions would permit networks to finance producers of first-run programming, yielding the same benefits that the Commission has recognized in

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<sup>28</sup> King World also makes vague assertions about CBS's new first-run show, "Day and Date," on the basis of a concededly incomplete and "tentative" list of the stations that have purchased the program in syndication. Again, there is no claim of abuse by CBS and no claim it has any control or influence over the independent syndicator that holds the distribution rights.

<sup>29</sup> TV Program Stats, supra.

the context of programs produced for network exhibition.

King World's motives in both the PTAR proceeding and this ultimate fin/syn review are transparent. Its goal is to retain both the rule that guarantees the first-run programs it distributes will have captive buyers (PTAR) and the rule that protects its dominant market share in first-run from competition (fin/syn). But King World has not provided the Commission with any basis for retaining the regulatory perquisites it holds so dear. There is no justification for rules whose principal effect is to protect this dominant and powerful company from competition.

D. The Reporting Requirements Should Not Be Retained

The Coalition and INTV both call for continuation of the fin/syn reporting requirements. The purpose of these Reports was to facilitate the review of network behavior contemplated by this proceeding. It is therefore ironic that the parties urging the continued preparation and filing of these Reports did not rely on the information they contain for their filings. In fact, it appears to us that not one of the fin/syn proponents even looked at the Reports; at least no one has argued that they did so and found the information the Reports reveal to be essential or even helpful to their case.

If these Reports were not relied upon for this proceeding -- the purpose for which they were designed -- we are at a loss to understand how continued reporting will be useful to anyone in the future, or why the networks and the Commission should continue to be burdened with this onerous and unnecessary paperwork and filing requirement.


Moreover, much of the information currently required in the Reports is irrelevant to any possible FCC concern, i.e., the identity of foreign broadcasters purchasing programs that networks syndicate abroad, and information pertaining to the syndication of programs that appeared on one of the networks before 1970. Other data are readily available from public sources. For example, the identity of stations that license a program in syndication is not a secret; it is known throughout the industry as soon as a deal is struck and by the public as soon as the program is broadcast.

The Commission should summarily reject the request to maintain the unnecessary and onerous fin/syn reporting requirements.

#### IV. CONCLUSION

The proponents of fin/syn regulation have failed to sustain their burden of proof. The arguments and limited facts they have presented in this proceeding are irrelevant, erroneous and totally unconvincing. NBC therefore urges the Commission not to wait until the November 10 scheduled sunset of the remaining fin/syn restrictions, but to eliminate these restraints on competition immediately.

Respectfully submitted,

  
Richard Cotton  
Ellen Shaw Agress

National Broadcasting Company, Inc.  
30 Rockefeller Plaza  
New York, New York 10112

  
John K. Hane

National Broadcasting Company, Inc.  
1299 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

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